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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,453	01/31/2002	Srinivas Gutta	US020038	2229
24737 7590 07/13/2007 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			EXAMINER SHEPARD, JUSTIN E	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 07/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/066,453

Applicant(s)

GUTTA ET AL.

Examiner

Justin E. Shepard

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/14/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 2, 4-8, 12, and 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berenson in view of Finseth in view of Carpenter.

Referring to claim 1, Berenson discloses a method for customizing a subscription plan, the method comprising the steps of: receiving a plurality of programs from a plurality of channels (page 2, paragraph 31, lines 9-11; page 6, paragraph 65, lines 1-3); monitoring each of said plurality of programs watched by a user to generate a user profile indicative of a particular program being watched by said user (page 2, paragraph 33, lines 13-23); recommending a plurality of channels and programs as a subscription plan based on said user profile (figure 7; page 6, column 1, lines 1-4); selecting at least one of said programs (page 6, paragraph 64, lines 3-8).

Berenson does not disclose a method wherein the monitoring of the programs being watched includes the frequency of the programs being watched.

In an analogous art, Finseth teaches a method wherein the monitoring of the programs being watched includes the frequency of the programs being watched (column 14, lines 13-16).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the frequency monitoring taught by Finseth in the subscription plan creating method disclosed by Berenson. The motivation would have been to organize the viewing habits based on the program popularity, therefore making the more relevant recommendations easier to select (Finseth: column 14, line 16).

Berenson and Finseth do not disclose a method with the step of determining a payment plan based on said subscription plan and program selection.

In an analogous art, Carpenter teaches a method with the step of determining a payment plan based on said subscription plan and program selection (column 2, lines 22-29; column 8, lines 51-59; Note: As the Carpenter teaches the headend authorizing programs and ala carte payments options, this is interpreted as being equivalent to determining a payment plan).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the subscription payment plan taught by Carpenter to the method disclosed by Berenson and Finseth. The motivation would have been to enable the user to only pay for what services that it wanted to receive, therefore making the service cheaper to the user (Carpenter: column 2, lines 29-30).

Claim 14 is rejected on the same grounds as claim 1.

Referring to claim 2, Berenson discloses a method of claim 1, further comprising the step of selecting at least one channel associated with said subscription plan interactively in response to a user's input (page 3, paragraph 42, lines 1-4 and 7-10).

Claims 15 and 16 are rejected on the same grounds as claim 2.

Referring to claim 4, Berenson does not disclose a method of claim 1, further comprising the step of displaying said selected program for viewing.

In an analogous art, Finseth teaches a method of claim 1, further comprising the step of displaying said selected program for viewing (column 7, lines 64-67).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the television display taught by Finseth in the method disclosed by Berenson. The motivation would have been to provide the program to the user.

Claims 12 and 18 are rejected on the same grounds as claim 4.

Referring to claim 5, Berenson discloses a method of claim 1, further comprising the step of updating the content of said user profile to reflect said user's changing preference (page 8, paragraph 113, lines 6-8).

Claim 19 is rejected on the same grounds as claim 5.

Referring to claim 6, Berenson discloses a method of claim 1, wherein the step of monitoring each of said plurality of programs watched by said user further comprises

the step of classifying the content of said plurality of programs according to predetermined criteria (page 6, paragraph 65, lines 4-7).

Claim 20 is rejected on the same grounds as claim 6.

Referring to claim 7, Berenson discloses a method of claim 6, wherein said classification of each of said plurality of programs watched is performed according to an electronic program guide (EPG) (figure 9).

Referring to claim 8, Berenson discloses a method of claim 1, wherein said step of the selection of programs is performed interactively in response to said user's input (page 3, paragraph 36, lines 1-3).

2. Claims 9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berenson in view of Carpenter.

Referring to claim 9, Berenson discloses a method for customizing a subscription plan for a viewer, the method comprising the steps of: generating at least one user profile indicating said viewer's preference for a particular program (page 2, paragraph 33, lines 13-23); comparing said user profile with incoming programs from a plurality of channels to determine a match (page 6, column 1, lines 1-4); if there is match, recommending said matched programs to said viewer for future subscription (figure 7);

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and selecting at least one matched program, associated with a future subscription, for viewing at a particular time (page 6, paragraph 64, lines 3-8).

Berenson does not disclose a method with the step of determining a payment plan based on said subscription plan and program selection.

In an analogous art, Carpenter teaches a method with the step of determining a payment plan based on said subscription plan and program selection (column 2, lines 22-29; column 8, lines 51-59; Note: As the Carpenter teaches the headend authorizing programs and ala carte payments options, this is interpreted as being equivalent to determining a payment plan).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the subscription payment plan taught by Carpenter to the method disclosed by Berenson. The motivation would have been to enable the user to only pay for what services that it wanted to receive, therefore making the service cheaper to the user (Carpenter: column 2, lines 29-30).

Claim 13 is rejected on the same grounds as claim 5.

3. Claims 3 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berenson in view of Finseth in view of Carpenter as applied to claims 1 and 14 above, and further in view of Ottesen.

Referring to claim 3, Berenson and Finseth do not disclose a method of claim 1, further comprising the steps of storing said selected program in a storage medium for subsequent replay, and charging said user only for the subsequently viewed program.

In an analogous art, Ottesen teaches a method of claim 1, further comprising the steps of storing said selected program in a storage medium for subsequent replay, and charging said user only for the subsequently viewed program (column 12, lines 14-31).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the storage playback charging taught by Ottesen to the method disclosed by Berenson and Finseth. The motivation would have been to allow for the cable distributor to prevent pirating by having the STB call back whenever the recorded media is played.

Claim 17 is rejected on the same grounds as claim 3.

4. Claims 3, 10, 11, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berenson in view of Finseth as applied to the claims above, and further in view of Ottesen.

Claim 10 is rejected on the same grounds as claim 3.

Claim 11 is rejected on the same grounds as claim 8.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

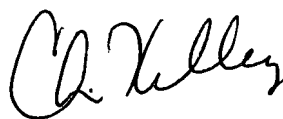
mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, appearing to read "C. Kelley".

CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600